

The Examiner alleges that the trademark "Tween" cannot be used in the claims. However, a mere cursory search of post-1976 patents on the U.S. Patent and Trademark Office website shows patents containing the term "Tween" in their claims (e.g., see attached paper and copy of U.S. Patent 6,562,366 (claim 8) and U.S. Patent 6,495,155 (claim 7)).

In view of the above, withdrawal of the rejection of the claims under 35 U.S.C. Section 112, second paragraph is respectfully requested.

Claims 13, 17, 19, 21-22 and 24 have been rejected under 35 U.S.C. Section 102(e) as purportedly being anticipated by Doyle et al. (hereinafter Doyle). That rejection is traversed as it applies to the claims.

The present invention, as embodied in claim 13, relates to a method of detaching microorganisms from, or of inhibiting microbial attachment to, animal or poultry carcasses or seafood or parts thereof. The method consists of contacting animal or poultry carcasses or seafood or parts thereof at least once with at least one member of the group consisting of (i) a polysulfated polysaccharide, (ii) carboxymethyl cellulose, (iii) guanidine or arginine, optionally together with Tween and sodium chloride, (iv) and mixtures thereof, in an amount effective to detach microorganisms from, or inhibit microbial attachment to, said animal or poultry carcasses or seafood or parts thereof.

Doyle is concerned with compositions and methods for enzymatic reduction of adhesion by one or more microorganisms to cells, tissues, etc. Preferred enzymes include polyphenol oxidase and asparaginase. The composition is used to treat infections of nonhuman animals (paragraphs 0067, 0045). The composition may optionally contain carrageenan (paragraph 0074) and carriers such as methylcellulose (paragraph 0080) or thickeners and binders such as

carboxymethyl cellulose (paragraph 0089). Example 5 discloses the use of benzoyl-DL-arginine-p-nitroanilide (paragraph 0135) though its purpose is unclear.

The claimed method does not involve use of the same composition as described in Doyle. Doyle requires the use of enzymes (e.g., polyphenol oxidase, asparaginase) as the effective ingredient. No such enzymes are used in the present invention. Nor is the present invention concerned with treating infections in living animals; to the contrary, the present invention is concerned with detaching microorganisms from, or of inhibiting microbial attachment to, animal or poultry carcasses or seafood or parts thereof.

As stated above, no enzymes are used in the present invention. Claim 13 states the following (emphasis added):

A method of detaching microorganisms from, or of inhibiting microbial attachment to, animal or poultry carcasses or seafood or parts thereof, said method consisting of contacting animal or poultry carcasses or seafood or parts thereof at least once with at least one member of the group consisting of (i) a polysulfated polysaccharide, (ii) carboxymethyl cellulose, (iii) guanidine or arginine, optionally together with Tween and sodium chloride, (iv) and mixtures thereof, in an amount effective to detach microorganisms from, or inhibit microbial attachment to, said animal or poultry carcasses or seafood or parts thereof.

MPEP Section 2111.03 states the following: "The transitional phrase 'consisting of' excludes any element, step, or ingredient not specified in the claim...." If the Examiner alleges that claim 13 is open to the use of enzymes then the Examiner is respectfully requested to provide the legal basis for such an allegation.

In view of the above, withdrawal of the rejection of the claims under 35 U.S.C. Section 102(e) is respectfully requested.

Claims 14-16, 18 and 20 have been rejected under 35 U.S.C. Section 103(a) as purportedly being obvious over Doyle. That rejection is respectfully traversed as it applies to the new claims.

The Examiner has alleged the following (page 4, Office Action): "...Doyle et al. teach using carraageenan to promote the reduction in the adhesion of the microorganism to the animal...." However, as noted in the Amendment filed on 18 March 2003, Doyle actually states the following (paragraph 0074; emphasis added):

...The pharmaceutical composition of the present invention preferably contain an effective amount of an enzyme, such as polyphenol oxidase...Optionally, the pharmaceutical composition may include agent(s) that stabilize or augment the activity of the polyphenol oxidase. Such agents include...carrageenan and other agents used to compound pharmaceuticals....

The present invention does not utilize enzymes such as polyphenol oxidase. Without enzymes such as polyphenol oxidase the Doyle's composition would be rendered inoperable for its intended purpose which is strong evidence of the non-obviousness of the present invention. *In re Gordon*, 221 USPQ 1125, 1127 (Fed. Cir. 1984). In other words, there would be no technological motivation for engaging in the modification or change (i.e., deletion of the enzymes); to the contrary, there would be disincentive. The Examiner has failed to address this point.

Withdrawal of the rejection of the claims under 35 U.S.C. Section 103(a) is respectfully requested in view of the above.

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited.

In the event that there are any questions relating to the Request For Reconsideration, or to the application in general, it is respectfully requested that the undersigned be contacted so that prosecution of this application can be expedited.

Please charge any required fees pertaining to this Request For Reconsideration to the
Deposit Account of the undersigned, No. 50-2134, and credit any overpayment to said Account.

Respectfully submitted,

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